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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,608	12/02/2005	Reinhold Burr	016906-0451	1523
23428 7590 01/22/2009 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
FORD, JOHN K				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,608

Applicant(s)

BURR ET AL.

Examiner

John K. Ford

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 12/20/05

The drawing is objected to because the subject matter of claim 6 is not illustrated in the drawing. In addition, the drawing Figure is of such poor quality that most of the details are obscured by the blackened areas. Avoid introducing new matter in responding to this requirement. If applicant cannot avoid adding new matter in attempting to respond to this requirement, then the examiner would suggest cancelling claim 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear both in the specification and the claims what the "regulator" claimed in claim 1 actually is. It is shown in the Figure as the proverbial "black box" with no details of how it works or what it is connected to or how it is connected. The would-be infringer would have no reasonable yardstick by which to determine whether or not some electrical connection in an accused infringing device (e.g. an electrical connection through a resistor or transistor etc) to the motor would be deemed to constitute a "regulator" or not. With respect to claim 2, it is unclear both in the specification and the claim what structure(s) constitutes a "decoupler" 15 (corresponding to the "vibration isolator 15" of claim 2). The would-be infringer would have no reasonable yardstick by which to determine whether or not some motor supporting structure in an accused infringing device could be considered a vibration isolator.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 60-099712.

According to the EPO (examiner J Chavel) this document is an "X" reference, corresponding to a 35 USC 102(b) reference. Unfortunately the examiner does not read Japanese. Please provide a translation of this document. Applicant has, more than likely, already translated it into German and thus has translation capability and ready access. In the absence of a translation, counsel may paraphrase the pertinent portions of this JP '712 in English so that the examiner will be in a position to appreciate the EPO examiner's position with respect to this reference.

JP '712 appears to show a housing in Figure 2 that has a receptacle 23 for housing a blower motor 19, two impellers 20, a blower motor mounting (annularly surrounding the motor in the vicinity of reference numeral 24) and apparently a motor regulator according to the EPO. Since applicant has not disclosed what applicant means by a "motor regulator" it is not possible to point to any specific structure illustrated that corresponds to this claimed feature. To explore that question, the

examiner awaits applicant's translation of the reference. Until then the examiner is relying on the expertise of the EPO examiner and any supplemental information that applicant may have received from EPO regarding this reference. There is a housing cover 22 that covers the top half impellers and cooperates with the receptacle 23 to completely surround both the blowers 20 and the motor 19 with a "spiral housing". The examiner will further explain the reference to applicant once applicant has provided the examiner with a suitable translation or paraphrase of this reference. Until that time the examiner reserves a right to argue both the anticipation and the obviousness aspects of the reference.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of JP 60-99712 and JP 59-57015.

The explanation of JP '712, above, is incorporated here by reference. JP '015 teaches a "register 11 controlling the rotation step of the fan motor 4" (i.e. a "regulator") which "register" is located inside of the housing. To have located such a "register" controlling fan speed inside of the housing of JP '712 would have been obvious to one of ordinary skill to advantageously allow for improved control of the fan speed. Locating such a "register" for controlling fan speed inside of the blower motor casing is fairly taught by JP '015.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 60-99712 alone or the combined teachings of JP 60-99712 and JP 59-57015 as applied to claims 1-7 and further in view of Mino et al (USP 4,672,819).

To have used a motor mounting bracket of the type illustrated in Mino at 20a and 20b in Figures 1, 2 and 5 in place of whatever motor mount is used in JP '712 would have been obvious to one of ordinary skill in the art to allow the motor to be easily detached for servicing or replacement.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 60-99712 alone or in view of JP 9-57015 as applied to claim 1 above, and further in view of Bartlett (USP 6,262,504).

Bartlett teaches a vibration damper 144 (see Figure 3) that would have been obvious to have used in JP '712 in the event that applicant's translation of JP '712 shows that JP '712 does not have one already. Such a vibration damper would advantageously reduce noise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John K. Ford/
Primary Examiner, Art Unit 3744